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Attorneys for Defendant David A. Lacy

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH

CENTRAL DIVISION

UNITED STATES OF AMERICA,

Plaintiffs,

vs.

DAVID A. LACY, an individual,

Defendant.

**MOTION TO SUPPRESS OR
OTHERWISE EXCLUDE VIDEO
AND/OR AUDIO RECORDINGS**

Civil No. 2:09-cr-00045

Judge Ted Stewart

Defendant, David A. Lacy, by and through his counsel of record, hereby files this motion to suppress or otherwise exclude any video and/or audio recordings sought to be introduced by the government in this case.

As part of the government's investigation of Mr. Lacy, the government employed a confidential informant (the "CI") who made covert video and/or audio recordings of his conversations with Mr. Lacy regarding alleged archeological items allegedly obtained by Mr. Lacy in San Juan County, Utah. Mr. Lacy has been provided with copies of the video and/or audio recordings. Mr. Lacy has requested from the government any and all FD-302 forms and FD-473 forms relevant to the investigation of Mr. Lacy. (*See* Second Formal Request for Discovery Under Rule 16 of the Federal Rules of Criminal Procedure and for *Brady/Giglio* Material.) Mr. Lacy has also requested from the government a complete description of the covert video and/or audio surveillance used by the government in its investigation of Mr. Lacy, including, without limitation, the type of technology used, the manner in which the videos and/or audio were recorded, the manner in which the videos and/or audio were monitored, and the manner in which the videos and/or audio were copied. (*Id.*) Pending production by the government of the requested information, Mr. Lacy wishes to preserve his ability to file a motion to suppress or otherwise exclude the video and audio recordings based on, without limitation, the Sixth Amendment's Confrontation Clause and Rules 403, 801, 802 and 901 of the Federal Rules of Evidence.

DATED this 6th day of June 2011.

RAY QUINNEY & NEBEKER P.C.

/s/ Matthew R. Lewis

Matthew R. Lewis
Matthew M. Cannon

Attorneys for Defendant David A. Lacy

CERTIFICATE OF SERVICE

I hereby certify that on the 6th day of June 2011, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which sent notification of such filing to the following:

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